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MAILED
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OFFICE OF PETITIONS

#13

In re Patent No. 6,200,451	:	DECISION ON PETITION
Issue Date: 03/13/2001	:	UNDER 37 CFR 1.183
Application Number: 09/251,641	:	
Filing or 371(c) Date: 02/17/1999	:	
Attorney Docket Number: 297-056	:	

This is also a decision on the "PETITION UNDER RULE 1.182, OR IN THE ALTERNATIVE, UNDER RULE 1.183, TO ALLOW ASSIGNEE TO PROCEED ON BEHALF OF DECEASED INVENTOR TO CORRECT INVENTORSHIP UNDER 37 CFR §1.324 IN A PATENT," filed on October 11, 2012, which is treated as a petition requesting waiver under 37 CFR 1.183 of 1.324 inasmuch as it requires that a named inventor assent to the correction of the inventorship in an issued patent.

The petition is **DISMISSED**

Petitioner requests waiver of the rules in that named inventor Ronald Redline is deceased and is unavailable to execute the statement under § 1.324(b)(2). Petitioners assert that inventor Redline assigned all of his right, title, and interest in the patent, and requests that the Office accept a statement from the assignee in lieu of the statement from inventor Redline.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

Effective September 16, 2012, 37 CFR 1.324(b)¹ now states that:

Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

¹ See *Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act* 77 Fed. Reg. 48776, 48823 (August 14, 2012).

- (1) A statement from each person who is being added as an inventor and each person who is currently named as an inventor either agreeing to the change of inventorship or stating that he or she has no disagreement in regard to the requested change;
- (2) A statement from all assignees of the parties submitting a statement under paragraph (b)(1) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(c) of this chapter; and
- (3) The fee set forth in § 1.20(b).

Effective, September 16, 2012, 37 CFR 1.43² states that if an inventor is deceased or under legal incapacity, the legal representative of the inventor may make an application for patent on behalf of the inventor.

Although this application has issued as a patent, the principles of § 1.43 are relevant in that petitioner must identify the legal representative of the deceased inventor and obtain his or her signature on the statement in accordance with 37 CFR 1.324(b)(1). The statement should also identify the name of the legal representative.

As such, the petition is dismissed without prejudice to reconsideration pending submission of a statement under § 1.324(b)(1) signed by the legal representative of the deceased inventor.

Furthermore, a statement under 37 CFR 3.73(c) must be provided. A copy of the form for completion of the Statement Under 37 CFR 3.73(c) is included for petitioner's reference.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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² See Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act 77 Fed. Reg. 48776, 48815 (August 14, 2012).

Patent No. 6,200,451
Application No. 09/251,641


3

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By fax: (571) 273-8300
ATTN: Office of Petitions

A reply may also be filed via the EFS-Web system of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3231.


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Encl: PTO/AIA/96